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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/626,786	07/23/2003	Eric Miller	2330(16353)	1186

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EXAMINER

GAUTHIER, GERALD

ART UNIT	PAPER NUMBER
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2645

DATE MAILED: 01/24/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/626,786

Applicant(s)

MILLER, ERIC

Examiner

Gerald Gauthier

Art Unit

2645

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 21 November 2005.
2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-13 and 15-27 is/are pending in the application.
4a) Of the above claim(s) _____ is/are withdrawn from consideration.
5) ☐ Claim(s) _____ is/are allowed.
6) ☒ Claim(s) 1-13 and 15-27 is/are rejected.
7) ☐ Claim(s) _____ is/are objected to.
8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

DETAILED ACTION

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

3. **Claim(s) 1-13 and 15-27** are rejected under 35 U.S.C. 103(a) as being unpatentable over Stork et al. (US 5,710,816) and in view of Nelson et al. (US 6,741,705 B1).

Regarding **claim(s) 1**, Stork discloses a network apparatus for communicating a recorded message from a calling party to a called party within a network (FIG. 3 and column 1, lines 5-8), comprising:

a messaging controller for accepting commands over said network from said calling party, said messaging controller playing and recording digital media including said recorded message (FIG. 1 and column 2, lines 22-34);

an encryption encoder/packager coupled to said message controller for encrypting said recorded message in response to an encryption key and packaging said encrypted recorded message with an identifier to produce a protected message file (FIG. 1 and column 2, lines 35-43 and lines 60-65);

a notification system for sending a notification message over said network for said called party to announce said protected message file (FIG. 1 and column 2, lines 44-59);

a message distributor for delivering said protected message file from said media storage to said called party over said network when requested by said called party (FIG. 1 and column 3, lines 11-17); and

a license server for maintaining a decryption key corresponding to said encryption key and said identifier and for responding to a validated request over said network for a license from said called party, wherein said validated request includes said identifier, and wherein said license includes said decryption key for accessing said protected message file (FIG. 2 and column 3, lines 38-46).

Stork discloses a transmission line but fails to disclose an IP network and a media storage for storing the protected message file.

However, Nelson teaches an IP network (column 3, lines 23-28); and

media storage for storing said protected message file (column 4, line 66 to column 5, line 15).

Therefore, it would have been obvious to one of the ordinary skill in the art at the time the invention was made to modify the invention of Stork using the teaching of an IP network as taught by Nelson.

This modification of the invention enables the system to have an IP network and a media storage for storing the protected message file so that the user would download the message using a decryption key.

Regarding **claim(s) 2 and 16**, Stork discloses an apparatus wherein said messaging controller identifies license parameters for providing selected limitations for accessing said protected message file (FIG. 1 and column 2, lines 35-43).

Regarding **claim(s) 3 and 17**, Stork discloses an apparatus wherein said license parameters are maintained by said license server for inclusion in said license (FIG. 1 and column 3, lines 11-17).

Regarding **claim(s) 4 and 18**, Stork discloses an apparatus wherein said license parameters are incorporated into said protected message file (FIG. 1 and column 3, lines 11-17).

Regarding **claim(s) 5 and 19**, Stork discloses an apparatus wherein said messaging controller is responsive to respective commands from said calling party for specifying said selected limitations (FIG. 1 and column 2, lines 44-59).

Regarding **claim(s) 6 and 20**, Stork discloses an apparatus wherein said selected limitations include default limitations associated with at least one of said called party and said calling party (FIG. 1 and column 2, lines 44-59).

Regarding **claim(s) 7 and 21**, Stork discloses an apparatus wherein said identifier comprises a key identifier for uniquely identifying said decryption key (FIG. 2 and column 3, lines 51-60).

Regarding **claim(s) 8 and 22**, Stork discloses an apparatus further comprising: a user agent for establishing a communication session within said IP network between said calling party and said messaging controller (FIG. 1 and column 2, lines 16-21); and a transfer client for exchanging communication signals to and from said calling party (FIG. 1 and column 2, lines 35-43).

Regarding **claim(s) 9 and 23**, Stork discloses an apparatus wherein said notification message is sent to an instant message client (FIG. 2 and column 3, lines 38-46).

Regarding **claim(s) 10 and 24**, Stork discloses an apparatus wherein said notification message is sent to a short message service device (FIG. 2 and column 3, lines 38-46).

Regarding **claim(s) 11 and 25**, Stork discloses an apparatus wherein said notification message is sent to an e-mail client (FIG. 2 and column 3, lines 38-46).

Regarding **claim(s) 12 and 26**, Stork discloses an apparatus wherein said message distributor comprises an e-mail server for providing said protected message file as an e-mail attachment (FIG. 2 and column 3, lines 38-46).

Regarding **claim(s) 13 and 27**, Stork discloses an apparatus wherein said message distributor comprises a streaming media server, wherein said notification message provides a stream identification, and wherein said streaming media server streams said protected message file in response to being contacted by a media player (FIG. 2 and column 3, lines 38-46).

Regarding **claim(s) 15**, Stork in combination with Nelson discloses all the limitations of **claim(s) 15** as stated in **claim(s) 1**'s rejection and furthermore Stork discloses placing a call from said calling party to a called party over said IP network (FIG. 1 and column 2, lines 16-21);

determining that said called party is not available for said call (FIG. 1 and column 2, lines 22-34);

interconnecting said call with a message service over said IP network (FIG. 1 and column 2, lines 22-34).

Response to Arguments

4. Applicant's arguments with respect to **claim(s) 1-13 and 15-27** have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

5. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Gerald Gauthier whose telephone number is (571) 272-7539. The examiner can normally be reached on 8:00 AM to 4:30 PM.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Fan Tsang can be reached on (571) 272-7547. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

GERALD GAUTHIER
PATENT EXAMINER

g.g.

January 18, 2006

OVIDIO ESCALANTE
PATENT EXAMINER

Ovidio Escalante